

Application No. 09/888,554

Amendment Dated November 20, 2009

Reply to Notice of Non-Compliant Amendment mailed October 30, 2009

**Amendments to the Drawings:**

New Sheets 6 and 7: The attached sheet of drawings includes New Sheets 6 and 7. New Sheets 6 and 7 were submitted in the original Non-Provisional Patent application (09/888,554) dated 6/24/2002 and originally numbered Sheet 4 and 5. New Sheets 6 and 7 were also included in the Provisional Patent application Continuation dated 6/22/2000 with PTO receipt number (60/214545) with few added figures removed. No revisions to New Sheets 6 and 7 have been made since being withdrawn in Error as Sheets 4 and 5 in the original Non-Provisional Patent application dated 6/24/2002. This error is addressed in the Remarks Section of this Amended Application and is amended by the signed “Errors” Statement (PTO/SB/51S) included in this application.

New Sheet Added Containing the Following Figures: Sheet 4: Fig 6, Fig. 7, Fig. 8.

New Sheet Added Containing the Following Figures: Sheet 5: Fig 9, Fig. 10, Fig. 11.

New Figures and Elements: Replace previously omitted Figures and Elements and have been added or amended with these New Figures and elements.

This new sheet that includes Fig. 6, Fig. 7, Fig. 8

In Fig. 6 descriptive elements 2, 3, 4, 5 have been added. In Fig. 7 descriptive elements 2, 3, 4, 5, 15 have been added. Fig. 8 descriptive elements 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 have been added.

Existing: The existing sheets 1-3 contain no revisions.

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### **REMARKS AND ARGUMENTS**

The Abstract and Specifications have been amended to reflect the prior art and claims of the Provisional Patent (receipt # 60/214545) cited and the **Non-Provisional Patent application (09/888,554 dated 6/24/2001)**.

In the Detailed Action letter dated September 24, 1983, page 2 Claim Rejection – USC 102 the note, the phrase “acting as a physical product purchase divider” was said to not carry much presentable weight. This is stated because it would be an intended use of any exterior housing including cited prior art.

The following patents are relevant to establishing the unique nature and patent weight given in granted patents as to the purchase or checkout divider as it exists and is used as unique tool, machine, machine and a unique purpose and is a device as it now exists. I am sighting three patents that where the main claim was that the checkout divider was a unique item and was granted patents for a new and improved version or what the checkout divider can contain. The USPTO has already granted considerable weight in the concept that a product purchase divider is a unique device by granting past patents for items, parts or products contained within it's exterior. The main claim of this patent application is that electronics are inserted into the checkout counter interior.

### **Claim Rejections – 35 USC & 102 – Response**

Claims 1-3 were rejected under 35 U.S.C. 102(b) as being anticipated by Tracy et, al patent No. 5,979,757 dated Nov. 9, 1999 and Tracy et, al patent No. 5,825,002 dated Oct. 20, 1998. Tracy et, al does not describe a new improved checkout counter product divider that's primary use is by store customers. Tracy et, al does not mention that the machine could or will improve or replace the checkout counter product divider. Some methods of data processing are similar but other than proprietary programming the electronic checkout counter divider is a different machine, uses off the shelf components, is also much more compact and offering a store customer a multitude of use options. This current Amended Application in the specifications and claims, when also including the Provisional Patent filed 6/22/2000, the products are used for a dissimilar purpose and Tracy et, al does not contain verifications intended for store customers. Although they may have some similar traits, such as many patent do, Tracey et, al patent No. 5,825,002 and the Checkout Product Divider Patent No. 09/888,554 serves a different purpose under the revisions enclosed in this **Detailed Action** reply.

The Product Divider is a unique product and this patent improves the product divider as a useful customer and marketing product tool. The patent application for the electronic checkout counter product divider is for a unique machine that is new and an improvement over existing checkout counter product dividers by installing customer interactive electronics. The interactive checkout counter dividers will be located only at the check out counter replacing the existing checkout dividers with new and improved interactive electronic dividers.

**I am sighting three Granted Patent References for Counter Checkout Dividers and the patents were granted for what the inventor was inserting into the Counter Divider and considered the product purchase divider as a unique device.:**

(11) Patent No. 4,534,126 Title: (54) Checkout Counter Divider. (22) filed March 19, 1994 (45) Date of Patent, August 13, 1985. Clear weight was given in granting this patent because it was specifically used as a product purchase divider. It describes a Check-Out Counter Divider with a primary claim being that the ends of the divider are removable, the divider will be a clear plastic and that it contains advertising material. CONTAIN CLAIM

(11) Patent No. 5,933,994 Title (54) "Retail Checkout Divider Adapted To Receive Strips With Indicia Displayed Thereon". (22) filed June 19, 1997, (45) Date of Patent, August 10, 1999. Clear weight was given in this cited patent being that the divider housing and exterior are an integral part of the patent. The patent clearly gives weight that "A Retail Checkout Divider" as precedence of prior patents. Clearly in this cited patent "A Retail Checkout Divider" was given the weight just less of the patent if inserting indicia advertising. This patent also does not mention the insertion of electronics into the divider housing.

(11) Patent No. US 7,284,347 Title (54) Checkout Divider, (22) filed March 28, 2003, (45) Date of Patent October 23, 2007. Considerable weight was given to the checkout or product divider and the ability to insert non-electronic advertising. The granted patent also gave weight to a Checkout Divider can vary in shape and size.

## REMARKS

The current application No. 09,888,554, meets all that criteria but is new and improved containing electronics and within the patent application, and amendments by this letter, with the insertion of interactive, video and wireless electronic technologies. These properties were envisioned in the 6/24/2001 Non-Provisional patent application 09/888,554 and the Provisional patent filed 6/22/2000. So the application should be deemed as a new improved and unique checkout counter divider that is unique and an improvement over the past patents.

In the cited examples above (**New References Cited**) of previous granted patents for a type of Checkout or Product Purchase Divider as a unique component of the granted patent. The current patent application No. 09,888,554 calls for the use of a checkout or product purchase divider with variations of electronic components installed for interaction with shopping customers. The key to this patent application is in improving the product purchase divider as a new and improved unique Product and Customer Purchase Divider device by installing electronics and making it electronically customer interactive.

The examiner cited Tracy, et al. as the primary basis for rejections of claims 1-3 under 35 U.S.C. 102 (b) as being anticipated.

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The interactive checkout counter purchase is a unique product and device that has a unique and particular use. The interactive electronic checkout counter divider is a central piece of original art because Tracy et al does not mention that their device could be used as an electronic interactive checkout counter divider such a device. The Tracy et al patent does not describe a checkout counter divider as part of the method or device.

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The type of components used in construction and software base program standard off the shelf components. A good percentage of the claims in the Tracy et al patent have to do with methods and the counter checkout divider differs from Tracy et al. Most of these methods were cited in prior art [56] References Cited on patent No. 5,979,757 Nov.9, 1999, and Tracy et al. Patent No. 7,107,221 B1. The Tracy et al patents has a different purpose does not reside at the store checkout counter as a Checkout Divider.

#### **Amendments to the Claims:**

Claims 2-3 were to be (currently amended) but were listed (withdrawn) by mistake. Claims 2-3 are now listed in Amendments to the Claims as (currently amended) as claims 4-5. Form PTO/SB/51S Supplemental Declaration For Patent Application To Correct “Errors” Statement under (37 CFR 1.175) is included with this Amended Application Submission to correct the error in the prior Amended Application of the Listing of Claims.

Claims 4-5 (currently amended) and New Claims 6-7-8 reflect original art, claims and specifications found in the initial Non-Provisional Patent Application (dated 6/24/2001) and the Provisional patent (receipt # 60/214545 dated 6/22/2000).

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**Provisional Patent Continuation:**

I am requesting that this Non-Provisional Amended application be a continuation of the Provisional Patent application that was filed (6/22/2000), and Non-Provisional Application that was filed (6/24/2001) within the required 12-month time allotment in a timely manner. The Provisional Patent Application (60/214545) (Receipt Date 6/22/2000) will demonstrate that prior art was submitted and received by the USPTO and that items in the Provisional Application prior art is relevant to the current Non-Provisional Application (09/888,554) and this current amendment. Initially in the Non-Provisional Patent Application, dated 6/24/2001 number 09/888,554, it was requested to include the Provisional Patent application as a continuation of the Non-Provisional application and to also to support the claims.

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**Notice of Non-Compliant Amendment mailed 6/30/2009 box 5.**

The following has been added to this amended application as referenced in the Notice of Non-Compliant Amendment mailed 10/20/09. As indicated in box 5 this amended application is signed in accordance with 37 CFR 1,4)

**“Errors Statement” Under 37 CFR 1.175**

Included with this amended application a Supplemental Declaration For Reissue Patent Application To Correct “Errors” Statement under (37 CFR 1.175) as errors in the claims, specification, abstract and drawings were unintentional and now corrected.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully Submitted,

Steven M. Senn / Sennco

By \_\_\_\_\_

Steven M Senn

Inventor

Tel.: (206) 403-7399

Attachments